CERTIFICATE

Supreme Court of the United States

OCTOBER TERM, [redacted] 1927

No. [redacted] 110

JOHN P. DONNELLEY

vs.

THE UNITED STATES OF AMERICA

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

FILED AUGUST 30, 1928

(32,149)

(32,149)

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1926

No. 582

JOHN P. DONNELLEY

vs.

THE UNITED STATES OF AMERICA

ON CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

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tions of the National Prohibition Act by the said James A. Curran, did wilfully, unlawfully and knowingly, and in violation of the National Prohibition Act, fail to report such knowledge of said violations of the law by said James A. Curran to the United States Attorney for the District of Nevada, who was then and there charged with the duty of prosecuting subject to the direction of the Attorney General, the said James A. Curran for said violations of the National Prohibition Act."

The information contained three other counts of like import, but as to the latter the jury returned a verdict of not guilty. A verdict of guilty was returned as to the first count only and the judgment on the verdict is now before the above entitled court for review on writ of error.

Section 2 of Title II of the National Prohibition Act provides:

"The Commissioner of Internal Revenue, his assistants, agents, and inspectors shall investigate and report violations of this Act to the United States attorney for the district in which committed, who is hereby charged with the duty of prosecuting the offenders, subject to the direction of the Attorney General, as in the case of other offenses against the laws of the United States; * * *."

Section 29 of the same Act and Title provides:

"Any person violating the provisions of any permit, or who makes any false record, report, or affidavit required by this title, or violates any of the provisions of this title, for which offense a special penalty is not prescribed, shall be fined for a first offense not more than $500; for a second offense not less than $100 nor more than $1,000, or be imprisoned not more than ninety days; for any subsequent offense he shall be fined not less than $500 and be imprisoned not less than three months nor more than two years."

[fol. 3] QUESTION CERTIFIED

The question of law concerning which the Circuit Court of Appeals for the Ninth Circuit desires instruction from the Supreme Court is:

Does the neglect or failure of the Commissioner of Internal Revenue, his assistants, agents or inspectors to report violations of the National Prohibition Act, coming to their knowledge, to the United States Attorney for the district in which committed, as provided in section 2 of Title II, and as charged in the information, constitute a violation of any provision of Title II, within the true intent and meaning of section 29 of said Act and Title?

Wm. B. Gilbert, Wm. H. Hunt, Frank H. Rudkin,
United States Circuit Judges.

(Endorsed:) Certificate of the United States Circuit Court of Appeals for the Ninth Circuit, certifying a certain question or proposition of law to the Supreme Court of the United States under Section 239 of the Judicial Code. Filed July 14, 1926. F. D. Monckton, Clerk. By Paul P. O'Brien, Deputy Clerk.

A true copy.
July 14, 1926.

Attest:

F. D. Monckton, Clerk, by Paul P. O'Brien, Deputy Clerk. (Seal United States Circuit Court of Appeals for the Ninth Circuit.)

Endorsed on cover: File No. 32,149. U. S. Circuit Court of Appeals, Ninth Circuit. Term No. 582. John P. Donnelley vs. The United States of America. (Certificate.) Filed August 23, 1926. File No. 32,149.